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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/516,917

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Terrence John Mehan

15284.0001

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03/23/2009

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EXAMINER

TYLER, STEPHANIE E

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

03/23/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                       |   |  |
|------------------------------|---------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/516,917  | <b>Applicant(s)</b><br>MEHAN, TERRENCE JOHN |  |
|                              | <b>Examiner</b><br>STEPHANIE E. TYLER | <b>Art Unit</b><br>3754                     |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 11-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,3-7,9,10 are rejected under 35 U.S.C. 102(b) as being anticipated by Morris (4,598,844).

The Morris reference discloses a powder dispenser device (see fig.1) having a dispenser device body (12) having an inlet end (at 15) and an outlet end (very top of 12); a transport passage (see fig.1; central aperture extending from 17 to 16) between the inlet end (at 15) and the outlet end (very top of 12), the transport passage (see fig.1; central aperture extending from 17 to 16) having an inner wall (from 17 through 16; see fig.1) including a tapered portion (tapered at 16 and 17) tapering outwardly from a direction of the inlet end (at 15) toward the outlet end, wherein the across-sectional internal dimension at the inlet end (at 15) of the transport passage (see fig.1; central aperture extending from 17 to 16) are is smaller than the across-sectional internal dimension at the outlet end (very top of 12) of the transport passage; and at least two sealing connector sections (1<sup>st</sup> sealing connector at the very top inner wall of 10; 2nd sealing connector at top substantially cylindrical surface on 10 that mates w/ bottom substantially cylindrical surface of 12; col.2, lines 60,61), located at or near the inlet and outlet ends respectively, for sealingly connecting the device with a filler vessel and an

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unfilled vessel (10), thereby forming a substantially airtight seal, filler vessels and unfilled vessels respectively so that air within the unfilled vessel is displaced by powder from the filler vessel and passes through the transport passage during a filling operation.

Re: claim 3, wherein the sealable connecting section is in the form of threaded portions (col.2, lines 60-62), foam or rubber strips, light friction fits (col.2, lines 60-62), or flat or contoured plates which correspond to the connector surface of the an unfilled vessel.

Re: claim 4, wherein the transport passage (see fig.1; central aperture extending from 17 to 16) includes rounded shoulders (14,15) at its inlet end.

Re: claim 5, wherein the inner wall (from 17 through 16; see fig.1) of the transport passage (see fig.1; central aperture extending from 17 to 16) is a continuous generally smooth tapered configuration, tapering outwardly (see fig.1) from the inlet end (at 15) towards the outlet end (very top of 12).

Re: claim 6, wherein a contour formed by an inner wall (from 17 through 16; see fig.1) of the transport passage (see fig.1; central aperture extending from 17 to 16) differs from the contour formed by an exterior wall (see fig.1, outer surface of 12) of the transport passage.

Re: claim 7, wherein an exterior wall (see fig.1, outer surface of 12) of the transport passage (see fig.1; central aperture extending from 17 to 16) is shaped to correspond to an inlet or access portion of any one of a plurality of unfilled vessels

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having access or inlet portions of differing diameters or shapes, the exterior wall thereby incorporating the sealable connector section.

Re: claim 9, wherein the dispenser device body is constructed from suitable plastics (col.2, lines 51,52), machinable or mouldable (col.2, lines 51,52), or from suitable metals or metal alloys.

Re: Claim 10, wherein the device (12) is constructed from more than one part or one or more materials.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1,3-7,9,10 have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Booty (1,816,141), Rosenhan (3,252,635), Zimmerman (2,107,228), Donovan (2,802,609), Thompson (5,137,188) are other various types of dispensing devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHANIE E. TYLER whose telephone number is (571)272-8059. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. E. T./  
Examiner, Art Unit 3754

/Kevin P. Shaver/  
Supervisory Patent Examiner, Art Unit 3754